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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,840	02/24/2004	Ronald Moreschini		1943

7590 01/21/2005
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EXAMINER

KRAMER, DEAN J

ART UNIT PAPER NUMBER

3652

DATE MAILED: 01/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/784,840	Applicant(s) MORESCHINI ET AL.	
	Examiner Dean J. Kramer	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 1-10 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

More specifically, the punctuation of the claims needs to be corrected so that each claim is only one sentence in length. For example, the periods in the first lines of claims 2, 3, 4, 6, 7, 8, and 9 immediately before the word "wherein" should be changed to commas. Claims 6 and 9 should end with a period rather than a comma, and claim 10 needs to end with a period.

Also, regarding claims 1, 7, 8, and 10, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Further, there is no clear antecedent basis for "said vertical obstructions" (claim 2), "said handle" (claim 3), "the blade" (claim 4), "the unique wedge like protrusion" (claim 5), or "the vertical obstacle" (claim 5).

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Claims 8 and 9 are confusing in that they appear to contradict other claims from which they depend. For example, claim 8 sets forth shapes (i.e. "half round" or "wide 'V'") different from the wedge like shape recited in claims 1-7 from which claim 8 depends. Similarly, claim 9 sets forth a set of wheels fixed on the under side of the blade in contradiction to the wedge like protrusion recited in claims 1-7 from which claim 9 ultimately depends.

Further, the claims should be carefully checked for spelling errors such as "protrusin" (claim 9) and "substence" (claim 10).

Also, the use of the trademark Teflon has been noted in claim 10 and the specification of this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5, as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Neuman.

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Neuman shows a snow shovel comprising wedge like protrusions (60) on the bottom surface of its blade that can be used as a fulcrum to move the working edge of the blade over a vertical obstruction.

4. Claims 1-5 and 10, as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Balboni.

Balboni shows a shovel blade (10) with a wedge-shaped protrusion (20) attached along the bottom edge of the blade. This protrusion is deemed to be *capable* of functioning as a fulcrum for the blade depending on the terrain being shoveled. Regarding claim 10, the Balboni blade can be coated with Teflon (see column 2, lines 14-16).

5. Claims 1-8, as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by either Yates or Davis.

Both Yates and Davis show snow removing devices having a protrusion that can be attached to the blade to assist the blade in maneuvering over small obstacles while reinforcing the front edge thereof.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

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the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claim 9, as understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over either Yates or Davis in view of Hudson.

Hudson shows a snow shovel having a pair of small wheels (15) at the bottom edge of its blade to allow the shovel to easily roll along the surface to be shoveled.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a small set of wheels adjacent the front bottom edge of either the Yates or Davis implement as taught by Hudson so that the blade could more easily roll over uneven terrain during the shoveling of snow therefrom.

Specification

9. The abstract of the disclosure is objected to because it contains legal phraseology such as "said" in lines 7, 21, and 23 which should be avoided. Also, the word "as" in line 19 should be capitalized. Correction is required. See MPEP § 608.01(b).

10. The disclosure is objected to because of the following informalities: On page 1, line 12, there is an incomplete sentence (ending with the word "is"). There are numerous punctuation errors that need to be corrected (e.g. several lines on page 2

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have periods that need to be changed to commas). On page 3, line 13, the word "do" should be changed to —due—, and on page 4, line 13, the word "view" should be changed to —views--.

Appropriate correction is required.

Drawings

11. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the small set of wheels as set forth in claim 9 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will

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be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

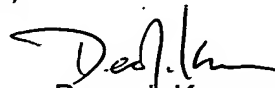
Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Berg shows a snow shovel with a set of wheels attached to the bottom surface of its blade.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dean J. Kramer whose telephone number is (703) 308-2181. The examiner can normally be reached on Mon., Tues., Thurs., Fri. (7:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (703) 308-1113. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Dean J. Kramer 1/15/05
Primary Examiner
Art Unit 3652

djk
1/15/05